

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA**

**v.**

**DAVID ELMAYES**

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**CRIMINAL NUMBER 20-218-1**

**ORDER**

**AND NOW**, this                      day of                      , 2020, the Court being advised that defense counsel needs additional time to investigate and effectively prepare for trial, and that the Government has no objection to the defendant's motion, the Court finds that the ends of justice to be served by granting a continuance in this matter outweigh the public's interest in a speedy trial, and therefore pursuant to Title 18, United States Code, § 3161(h)(7)(A), (B) and (C), it is hereby **ORDERED** that the defendant's unopposed motion for continuance of trial is **GRANTED**.

Trial in this matter shall begin on the                      day of                      , 2020.

**BY THE COURT:**

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**THE HONORABLE CHAD F. KENNEY**  
United States District Court Judge

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA**

**v.**

**DAVID ELMAKAYES**

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**CRIMINAL NUMBER 20-218-1**

**DEFENDANT'S UNOPPOSED MOTION  
FOR A NINETY (90) DAY CONTINUANCE OF TRIAL**

David Elmakayes, by his attorney, James J. McHugh, Jr., Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby respectfully requests a continuance of trial in the above captioned case. In support of this request, it is stated:

1. On August 4, 2020, David Elmakayes was indicted by a federal grand jury charging the defendant with one count of maliciously damaging property used in interstate commerce by means of an explosive in violation of 18 U.S.C. § 844(i); one count of carrying explosives during the commission of a felony in violation of 18 U.S.C. § 844(h)(2); and one count of possession of a firearm by a felon in violation 18 U.S.C. § 922(g)(1), 924(e).

2. On August 18, 2020, Mr. Elmakayes was arraigned before the Honorable Lynne A. Sitarski and entered a plea of not guilty on all counts.

3. Trial in this matter is scheduled to commence on October 16, 2020.

4. Additional time is requested to conduct further investigation. In addition, the parties are attempting to resolve this case without a trial and request additional time to negotiate a non-trial disposition. A continuance of not less than ninety (90) days is respectfully requested.

5. Under the Speedy Trial Act, Title 18 U.S.C. § 3161(h)(7)(A), (B) and (C), the period of delay resulting from a continuance is excludable where granting the continuance serves the ends of justice and outweighs the best interest of the public and the defendant in a speedy trial.

6. Failure to grant this request for a continuance would result in a miscarriage of justice, 18 U.S.C. § 3161(h)(7)(B)(I).

7. Failure to grant the continuance would deny counsel for the defendant the reasonable time necessary for preparing effectively to represent this defendant in this matter.

8. Failure to grant this continuance will also deny counsel for the defendant the opportunity to explore a non-trial disposition of this matter with the government.

9. Joseph A. LaBar, Assistant United States Attorney has advised counsel that he has no objection to this request.

**WHEREFORE**, for the foregoing reasons, the defense respectfully requests that this motion be granted and the trial be continued for not less than ninety (90) days.

Respectfully submitted,

/s/ James J. McHugh, Jr.  
JAMES J. McHUGH, JR  
Assistant Federal Defender

**CERTIFICATE OF SERVICE**

I, James J. McHugh, Jr., Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I have filed and served a copy of Defendant's Unopposed Motion for a Ninety (90) Day Continuance of Trial, through the Eastern District Clerk's Office Electronic Case Filing System ("ECF") and/or by electronic mail upon:

Joseph A. LaBar  
Assistant United States Attorney  
United States Attorney's Office  
615 Chestnut Street, Suite 1250  
Philadelphia, Pennsylvania 19106.

/s/ James J. McHugh, Jr.  
JAMES J. McHUGH, JR  
Assistant Federal Defender

DATE: September 16, 2020